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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,210	03/26/2007	Jason Quayle	DUMME55.008APC	7726

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EXAMINER	
JONES, MARCUS D	

ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
09/28/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/583,210	QUAYLE ET AL.	
	Examiner	Art Unit	
	MARCUS D. JONES	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 July 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20,22,23 and 25-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20,22,23 and 25-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *IDS (22 July 2009)*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 July 2009 has been entered.

Claims 1-20, 22, 23 and 25-28 are currently pending.

Claims 21, 24, and 29-43 are cancelled.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-18, 23, 25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams et al. (US 6,869,357).

In reference to claim 1, Adams discloses: A gaming machine for the playing of a game of chance wherein an outcome of said game of chance is determined by one of a number of predefined possible payline patters of indicia (col 2, ln 33-35, *predetermined pattern on adjacent reels, alone or in*

combination); said payline randomly selected by a game control module (col 4, ln 19-20, *at least one wager is assigned to a pay line randomly*); said payline patterns formed of a selection of elements of a matrix of columns and rows and wherein the number of said elements forming any one payline pattern is greater than the number of columns of said matrix; and wherein during a given game of play on said gaming machine a pattern of said payline randomly selected is indicated over said matrix of columns and rows (see Figure 4, col 6, ln 56-67, *Figure 4 displays a matrix of indicia positions, lead line 10 shows a payline that covers 6 indicia positions in the matrix*); said payline pattern maintained as a winning pattern until matched by a game played on said gaming machine (col 4, ln 21-24, *on a pay line which had already been activated, an additional wager will be made such that the amount wagered on that activated pay line will be automatically increased*).

In reference to claims 2, 3, 23 and 25, Adams discloses: wherein said columns and rows of said matrix are in the form of simulated reels divided peripherally into a plurality of elements; each said element displaying an indicia (see Figures 1-5).

In reference to claim 5, Adams discloses wherein said simulated reels are caused to display a spinning motion during a game; said reels coming to rest in a randomly selected position under control of said game control module so as to display three elements of each reel (col 6, ln 29-33, *video display of spinning reels and a random number generator to select virtual position, see Figure 2 for three element reel*).

In reference to claims 6 and 7, Adams discloses: wherein the number of said elements defining said predefined one of said plurality of payline patterns lies in the range of one greater than said number of columns and the total of said elements in said matrix (see Figure 4, col 6, ln 56-67, *Figure 4 displays a matrix of indicia positions, lead line 10 shows a payline that covers 6 indicia positions in the matrix, which in this example the number of columns is four and the total number of elements is 12*).

In reference to claim 8, Adams discloses: wherein said plurality of payline patterns is indicated to a player of said gaming machine by representation of a said paylines patterns on a front panel of said gaming machine (col 5, ln 7-8, *displayed on display device*).

In reference to claims 9 and 10, Adams discloses: wherein said game control module randomly selects a payline pattern from said plurality of payline patterns (col 4, ln 20-29)

In reference to claims 11 and 12, Adams discloses: wherein said selected payline pattern is indicated to a player of a game when said reels have come to rest by a highlighting said elements corresponding to said selected payline pattern (col 10, ln 49-52).

In reference to claim 13, Adams discloses that each winning combination in sequence to "build" a winning pay line is flagged (col 10, ln 37-40).

In reference to claim 14, Adams discloses wherein a player of a game may pre-select a payline pattern (col 5, ln 48-51, *player may select one or more paylines*) and wherein, if said payline pattern matches a pattern of indicia of said

reels when come to rest, said player is awarded a prize (col 6, ln 1-4, *player awarded a winning payout*).

In reference to claims 15, 16, 17 and 18, Adams discloses paylines one through eight defined by three indicia positions in varying vertical, horizontal and diagonal configurations (see Figure 2 and col 5, ln 65-67).

In reference to claim 26, Adams discloses that the selected sides of adjacent elements are maintained in a parallel, spaced apart relationship (see Figure 1).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (US 6,869,357.

In reference to claim 4, Adams discloses that 5 by 3 matrices are known in the art (col 1, ln 38-40 and 52).

6. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (US 6,869,357), and further in view of Berman (US PGPub 2008/0045323).

In reference to claims 19 and 20, Adams discloses a bonus game (col 4, ln 27-29) but does not specifically disclose a secondary display. Berman teaches that a bonus game or event is performed on an additional reel or machine (pg 3, par 33).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have modified Adams in view of Berman to add a separate reel to perform a bonus game.

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (US 6,869,357), and further in view of Payne et al. (US 6,241,607).

In reference to claim 22, Adams discloses the invention substantially as claimed except that the elements are staggered vertically. Payne teaches staggering of the elements in the columns (see Figure 6).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have modified Adams in view of Payne to add more possible payline combinations by staggering the elements.

8. Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (US 6,869,357), and further in view of Tiberio (US 5,611,535).

In reference to claims 27 and 28, Adams discloses that the gaming devices maybe connected to a local area or wide area network through the Internet (col 8, ln 38-43) but does not specifically disclose that the machines are linked to a jackpot system. Tiberio teaches a jackpot award for a selected outcome (col 5, ln 44-45).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have modified Adams in view of Tiberio to add the excitement of a jackpot win to the player's gaming experience.

Response to Arguments

9. Applicant's arguments have been fully considered but they are not persuasive.

10. With respect to claim 1, the Applicant asserts that the newly added claim limitation of, "said payline pattern maintained as a winning pattern until matched by a game played on said gaming machine," is not disclosed in Adams. The Applicant cited col 4, ln 37-39 of Adams in support of this assertion.

11. The Examiner respectfully disagrees.

12. Adams discloses that "on a pay line which had already been activated, an additional wager will be made such that the amount wagered on that activated pay line will be automatically increased" (col 4, ln 21-24). That is, the wager on a

previously selected payline is increased, however the activated payline remains activated or is "maintained" for the next game to be played. Clearly the pattern would be maintained in this case only if the outcome is winning, such that the wager could be increased on the winning payline. Thus, making the game more exciting for a player. If the outcome was losing, then the player may want to choose a different payline to bet on. The Examiner further disagrees with the Applicant's characterization of Adams disclosure of "a particular outcome on any one previous game or series of games…may cause one of these randomly controlled events to occur on a subsequent game." The Applicant emphasizes that the random events occur on ***a*** subsequent game (emphasis added). The Examiner submits that this is still a teaching of maintaining a particular payline. It would certainly be within the capabilities of one skilled in the art, that if Adams was referring to a maintaining the payline for a single game, to apply the concept to a series of subsequent games. However, the Examiner would like to point out that there is clearly a probability that the next outcome may be a match to the previously selected payline. Adams also discloses one or more desired indicia to be selected or held in place on one or more particular paylines for a subsequent game (col 4, ln 50-52). This illustrates further that the payline is maintained for the purpose of receiving a winning outcome from the game machine.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCUS D. JONES whose telephone

number is (571)270-3773. The examiner can normally be reached on M-F 9-5 EST, Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John M. Hotaling can be reached on 571-272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marcus D. Jones/
Examiner, Art Unit 3714

/John M Hotaling II/
Primary Examiner, Art Unit 3714